

REMARKS**Restriction Requirement**

Claims 24-39 are pending in this application.

In the December 15, 2008 Restriction Requirement, the Examiner required restriction of claims 24-39 under 35 U.S.C. § 121. The Examiner grouped the claims as follows:

Group I	Claims 24 (in part), 25-34 and 36-38, drawn to compounds and complexes of formula II and a method of using the same (a diagnostic imaging agent).
Group II	Claim 35, drawn to a method of using (treating a patient with a radiotherapeutic agent) compounds of formula II.
Group III	Claim 39, drawn to a method of making a polyazamacrocyclic compound bound to a linker.

Applicants hereby elect, with traverse, the claims of Group I (Claims 24 (in part), 25-34 and 36-38). Applicants respectfully maintain that the claims of Groups I, II and III could be searched together without undue burden. More specifically a search related to Group I compositions would reveal references of potential relevance to Groups II and III. Applicants also note that MPEP § 808.02 states that even if related inventions are shown to be distinct, the Examiner must also show serious burden “by appropriate explanation.” Since the Examiner has not shown how a search directed to all of the pending claims in Groups I-III would be a serious burden, applicants respectfully request that Groups and I, II and III be examined together. Applicants further note that Groups II and III are in the same class and subclass.

Moreover, as a result of the GATT legislation limiting the term of a patent to twenty years from its effective filing date, the delay in the examination of the non-elected claims will likely result in the patent term for these claims being unnecessarily shortened.

Furthermore, it is likely that the same Examiner would be in charge of the divisional application; but since that divisional application will be examined at a much later date, the Examiner will have to conduct a duplicate, redundant search at the time she examines the divisional application. Alternatively, if a different Examiner is assigned to the divisional application, a significant loss of PTO efficiency would be incurred as a result of the examination of that divisional case.

Applicants note the Examiner's comments regarding rejoinder and reserve their right to seek rejoinder of claims at the appropriate time.

In view of the foregoing, withdrawal of the requirement for restriction is respectfully requested.

Species Election

In response to the species election requirement, applicants hereby elect the following species: 10-Phosphonomethyl-1,4,7,10-tetraazacyclododecane-1,4,7-triacetic acid (MPDO3A) optionally complexed with a metal and optionally further comprising a linking group, a targeting moiety, a diagnostic moiety and/or a therapeutic moiety.

Applicants identify claims 24-27 and 29-38 as reading upon the elected species.

If a telephone interview would be of assistance in the prosecution of this application, the Examiner is invited to telephone Applicants' undersigned attorney at his convenience at the number provided below.

No fees, other than the fee for extension of time, are believed due in connection with the filing of this Response to Restriction Requirement. However, the Director is hereby authorized to charge any required fees and credit any overpayments to Deposit Account No. 50-0540.

Respectfully submitted,

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